THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26097 of 1997

Dated:08.3.2007

Between

1. P. Gopal Reddy and another.

.....Petitioners

and

The Vice Chairman & Managing Director
A.P.State Agro Industries Development
Corporation A.C.Guards, Hyderabad.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26097 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to direct the respondent to pay full pay and allowances for the period from 11-8-1987 to 6-4-1990 to the petitioners 1 to 6 by treating as if the petitioners had been on duty in view of Division Bench Judgment of this Court in W.A.No.632 of 1988 & batch dated 23.03.1990 and with a consequential direction to pay all the benefits flowing from quashing of the impugned orders of suspension.

The few facts which are necessary for disposal of this writ petition are that the petitioners are six in number. They are all working as Regional managers with the respondent-A.P. State Agro Industries

Development Corporation. While so, they were suspended from service by an order dated 11.8.1987 in view of their involvement into certain irregularities in the respondent-Corporation. Aggrieved by the said suspension order, the petitioners have filed Writ Petition Nos.12068 of 1987 and batch and the were dismissed on 10.2.1988. Further, the petitioners carried the matter in WA No.509 of 1988 and batch. The said writ appeals were allowed by an order dated 23.3.1990 which reads as under:

> "In the circumstances, we hold that the continued suspension of the appellants right from August, 1987 is violative of Articles 14 and 21 of the Constitution of India. We, therefore, quash the impugned orders of suspension passed against the appellants and allow the writ appeals, setting aside the order of our learned brother M.N.Rao,J. The appellants shall be reinstated into service forthwith."

It is the contention of the learned counsel for the petitioners that in view of the above Judgment, it must be deemed that the

suspension order dated 11-08-1987 was quashed and therefore, the petitioners are entitled for full salary for the period from 11.08.1987 till 6.4.1990 with all benefits.

Whereas it is the contention of the respondents that the Board has passed a resolution dated 26th September, 1995 after considering the representations made by the petitioners stating that the payment of full wages during the suspension period and also regulating the same for all other purposes would be looked into as soon as the disciplinary proceedings contemplated against the petitioners were concluded and the criminal proceedings attained finality.

Insofar as the criminal proceedings are concerned, the petitioners have been acquitted, and insofar as departmental proceedings are concerned, a show cause notice was issued earlier proposing the punishment of dismissal from service. Aggrieved by the same, the petitioners have

filed a writ petition before this Court and stay was granted. Thereafter, the writ petition was disposed of saying that no writ petition is maintainable against a show cause notice and the petitioners were permitted to submit their explanation. Instead of submitting explanation as per the directions of this Court, the petitioners have carried the matter in appeal and the appeal was dismissed on 21.4.2006. Further, a review petition was also filed in the writ appeal and that petition was also dismissed. It appears that subsequently no explanation is offered by the petitioners and the disciplinary proceedings are at that stage and no final orders are passed as on today.

Under those circumstances, I am of the opinion that no relief as sought for can be granted and it cannot be treated automatically that the suspension made on 11.8.1987 was quashed on merits. In fact, the very language imported in the operative portion of the order would indicate that there was no necessity of

continued suspension of the petitioners and that may hit article 14 and 21 of the Constitution of India. Therefore, this court directed reinstatement of the petitioners. The Division Bench has not gone into the merits of the suspension or as to the enquiry contemplated against the petitioners. The decision taken by the respondents that regularization of the petitioners' services for the period from 11.8.1987 to 6.4.1990 would be considered after the disciplinary proceedings are concluded, cannot be said to be either arbitrary and illegal. The same is in tune with the service jurisprudence. Writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs. However, this order will not preclude the Board from taking any decision with regard to the regularization of the petitioner's services for the period of suspension from 11.8.1987 to 6.4.1990 and considering payment of full

wages for the said period, if they are so advised.

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8-3-2007

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